Supreme Court, U.S.
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No. _____

In the Supreme Court of the United States

ALPHONSE RAINER, ET AL.,
Petitioners,

v.

UNION CARBIDE CORPORATION, ET AL.,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the Sixth Circuit's rejection of Petitioners' claims for damages as a result of proven subcellular injury pursuant to a stated policy to prevent "inherently limitless" tort actions conflict with the purpose of the Price-Anderson Act, 42 U.S.C. § 2014, to provide recourse for persons exposed to radioactive material as recognized by this Court in Silkwood v. Kerr-McGee Corp., 464 U.S. 238 (1984)?

2. Do workers secretly exposed to excessive levels of ionizing radiation who have tested positive for genetic and chromosome damage which medical experts uniformly agree constitutes physical injury and disease state an actionable wrong under the Price-Anderson Act, 42 U.S.C. § 2014?

3. Does the Sixth Circuit's opinion rejecting tort claims arising from radioactive exposure medically proven to have caused a subcellular disease conflict with this Court's precedent in Norfolk & Western Ry. Co. v. Ayers, 538 U.S. 135 (2003), Metro-North Commuter R. Co. v. Buckley, 521 U.S. 424 (1997), and Consolidated Rail Corporation v. Gottshall, 512 U.S. 532 (1994), that workers who suffer from a disease state a compensable injury?

4. Who decides, the judge or jury, whether toxic exposure that causes nonsymptomatic subcellular damage is a physical injury or disease?

5. Does the statutory framework of Price-Anderson exclude a claim under Bivens v. Six Unknown Named Agents of

the Federal Bureau of Narcotics, 403 U.S. 388 (1971), for workers secretly exposed to harmful radiation?

6. Does an employer's policy to hide exposures to highly toxic radioactive substances amount to a deliberate intention to produce injury, subjecting the actor to liability under state workers' compensation laws?

7. Can the federal courts require disgorgement of the unjustly retained funds that should have been expended for hazardous duty pay and safety improvements?

8. Is a document created in furtherance of concealing illegal injury to employees which was distributed to third parties entitled to the protection of the attorney–client privilege?

PARTIES TO PROCEEDING

The Petitioners are Alphonse Rainer, David M. Sacharnoski, Harold Hargan, Charles A. Ramsey, Mrs. H.C. (Sylvia) Mathis, Mrs. Alphonse (Janie) Rainer, Sybil Mathis, Shanda M. Mathis and Chyanne Rainer Stevens.

The Respondents are Union Carbide Corp., Martin Marietta Corporation, Martin Marietta Energy Systems, Inc., Martin Marietta Utility Services, Inc., Lockheed Martin Corporation, Lockheed Martin Energy Systems, Inc., Lockheed Martin Utility Services, Inc., and General Electric Company.

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